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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,343	08/09/2001	Gerd Jakob Ernst Scheller	CH 000016	4400

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EXAMINER

ELAHEE, MD S

ART UNIT PAPER NUMBER

2645

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/925,343

Applicant(s)

SCHELLER ET AL.

Examiner

Md S Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed on 09/20/04. Claims 1 and 3-7 are pending. Claim 3 has been cancelled.

Response to Arguments

2. Applicant's arguments with respect to claims 1 and 3-7 been fully considered but they are not persuasive.

Regarding claim 1, the applicant argues on page 4, line 21- page 5, line 2, "Nakamura fails to recite or suggest a lever element being arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect". Examiner disagrees with the argument. Nakamura teaches a lid [i.e., lever element] being arranged to inherently bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect (see fig. 1, element 3, fig.2). Therefore, it is inherent that the ringing indication is unique. Thus the rejection of the claim in view of Nakamura will remain.

Regarding claims 6 and 7 are rejected for the same reasons as discussed above with respect to claim 1.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Regarding claim 7, the phrase 'the accumulator' on page 5, lines 2, 3 of the claim

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lacks sufficient antecedent basis because it appears that the phrase 'the accumulator' should be 'a accumulator'.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1 and 5-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakamura et al. (U.S. Patent No. 6,529,714).

Regarding claims 1 and 6, Nakamura teaches a radio communication equipment (i.e., portable electronic apparatus) whose housing is provided with a housing part that is constructed as a lid (i.e., lever element), which is arranged in a wall of the housing and is arranged to cover at least partly a battery pack (abstract; fig.1, 2; col.2, lines 54-65).

Nakamura further teaches the lever element being arranged to inherently bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect (fig.1, element 3, fig.2).

Regarding claim 5, Nakamura teaches that the lever element is constructed as an angled metal plate so as to cover a battery pack (fig.1; col.2, lines 54-65).

Regarding claim 7 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, Nakamura teaches a lid (i.e., lever element) which offers inherently

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protection against shocks and pressure and also protects the accumulator (abstract; fig. 1, 2; col. 1, line 66, col. 2, line 7, col. 2, lines 54-65, col. 3, lines 23-29, 48-54).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (U.S. Patent No. 6,529,714) and in view of Fuchs et al. (U.S. Patent No. 3,870,184).

Regarding claim 3, Nakamura teaches the lever element is arranged to inherently open battery storage recess (i.e., closures) and is connected to the housing (fig. 1, 2; col. 2, lines 54-65, col. 4, lines 19-24, 32-39).

Nakamura fails to teach metal closures. Fuchs teaches metal closures (abstract; col. 1, lines 60, 61). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nakamura to allow metal closures as taught by Fuchs. The motivation for the modification is to have doing so in order to increase the hoop strength.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (U.S. Patent No. 6,529,714) and in view of Savovic et al. (U.S. Patent No. 5,260,146).

Regarding claim 4, Nakamura fails to teach that the lever element is made of metal and/or ceramic. Savovic teaches that the lid (i.e., lever element) is made of metal and/or ceramic (col. 3, line 8). Thus, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to modify Nakamura to allow the lever element being made of metal and/or ceramic as taught by Savovic. The motivation for the modification is to have doing so in order to connect the anode to the positive terminal.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chen (U.S. Patent No. 5,787,361) teach Coupling plate for mounting a battery pack onto a cellular phone and Peterzell et al. (U.S. Pub. No. 2001/0044281) teach Portable Phone With Imbedded Battery.

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (703)305-4822. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703)305-4895. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MD SHAFIUL ALAM ELAHEE
January 19, 2005

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

